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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,180	01/20/2004	Jeffrey A. Hubbell	NOVCEL.3CPDDVC	2061
36647	7590	10/18/2006	EXAMINER	
NOVOCELL, INC. 31 TECHNOLOGY DRIVE SUITE 100 IRVINE, CA 92618			BERMAN, SUSAN W	
			ART UNIT	PAPER NUMBER
			1711	

DATE MAILED: 10/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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10/761180

EXAMINER

ART UNIT	PAPER
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20061003

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Susan W Berman
Primary Examiner
Art Unit: 1711

Terminal Disclaimer

The terminal disclaimer filed 08-08-2006 has been disapproved because the e signature thereon is not proper under 37 CFR 1.4(d)(2). The e signature does not conform to the proper signature examples submitted by applicant in the response filed 08-17-2006. The designation /KOH/ could represent any number of names other than Kirk Hahn. Furthermore there is no "O" in Kirk Hahn, so the relationship between the e signature and the printed name under the signature is not clear. The e signature for Kirk Hahn, Ph.D., should read /Kirk Hahn/. See the examples of proper signatures.

The amendment filed on 08-08-2006 canceling all claims drawn to the elected invention and presenting only claims drawn to a new invention is non-responsive (MPEP § 821.03).

Newly submitted claims 148-151 and 182-225 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

With respect to claim 148-151 and 182-193, the remaining claims are not readable on the elected invention because the newly submitted claims recite a method comprising creating a microcapsule within which is encapsulated "at least one cell" while the originally presented claims recited an "islet cell" encapsulated in a microcapsule. With respect to claim 148, the method set forth is patentably distinct from the method set forth in the originally presented claims.

With respect to claim 194-209, the remaining claims are not readable on the elected invention because the newly submitted claims recite a method comprising creating a

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microcapsule within which is encapsulated “at least one cell” while the originally presented claims recited an “islet cell” encapsulated in a microcapsule.

With respect to claims 210-225, the method set forth is patentably distinct from the method set forth in the originally presented claims. Originally presented claims 1 and 129-138 set forth a method comprising mixing the microcapsule with an aqueous solution comprising a macromer and a photoinitiator, forming geometric shapes and exposing the geometric shapes to light radiation. The differences between the elected invention set forth in the claims as originally filed are: geometric shapes and exposure of said geometric shapes to light radiation set forth in original claim 1 and amended claim 166 are not mentioned in claim 210. Coating the microcapsule with a photoinitiator was first recited in claim 169 filed 03-03-2006, not in the claims as originally filed. Claims 1 and 166 recited mixing the microcapsule containing an islet cell in an aqueous solution of macromer and photoinitiator. Claims 1 and 166 recited polymerizing by exposure to light radiation while claim 210 does not recite light radiation.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 148-151 and 182-225 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in

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order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan W. Berman whose telephone number is 571 272 1067. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 571 272 1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SB
10/11/06


Susan W Berman
Primary Examiner
Art Unit 1711